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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,756	12/04/2000	Richard F. Bergen	D/01	2366
7590		05/11/2004	EXAMINER	
William A. Henry, II		HARRINGTON, ALICIA M		
14 Barrington Hills		ART UNIT		
Pittsford, NY 14534		PAPER NUMBER		
		2873		

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,756

Applicant(s)

BERGEN, RICHARD F.

Examiner

Alicia M Harrington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,30,36 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10,30 and 36 is/are allowed.
- 6) ☒ Claim(s) 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 0504.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The after-final amendment filed on 4/23/04 has been entered. The following rejection is based on claim 41 as filed on 4/23/04. Claims 1-9, 11-29, 31-35 and 36-40 have been canceled by this amendment.

2. The indicated allowability of claim 41 is withdrawn in view of the newly discovered reference(s) to Dixon (US 3,964,824). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Dixon (US 3,964,824).

Regarding claim 41, Dixon discloses a method for creating a 360-degree circle of ever emerging light (see abstract; figures 1,2,4) light, comprising the steps of:

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providing a laser source (10; see col.1, lines 52-56); and providing a device (20) for receiving radiant energy from said laser source, said device being adapted such that radiant energy directed from said laser source orthogonally into said device emerges from said device in an outward pattern to form a line (see col. 2, lines 1-10) in a predetermined plane, and wherein said device is a bundled capillary (elongated tube like structure) array (see col. 2, lines 19-27).

Allowable Subject Matter

5. Claims 10,30, 36 allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 10 and 36, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which include projecting laser light onto a hollow tube within a hollow tube to form an outward pattern of an optical line as claimed.

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Conclusion

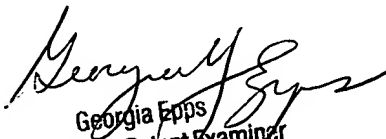
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M Harrington whose telephone number is 571 272 2330. The examiner can normally be reached on Monday - Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571 272 2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AMH

Alicia M Harrington
Examiner
Art Unit 2873


Georgia Epps
Supervisory Patent Examiner
Technology Center 2800